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June 19, 1995

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VIA HAND DELIVERY

Mr. William Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M. Street, N.W.
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

**Re: In the Matter of Market Entry and Regulation of
Foreign-Affiliated Entities
IB Docket No. 95-22**

Dear Mr. Caton:

Today, I met, on behalf of Telefónica Larga Distancia de Puerto Rico, Inc. ("TLD"), with Julius Genachowski, of Chairman Hundt's office, regarding the above-captioned matter. We discussed TLD's comments in the above-captioned proceedings and shared the attached presentation with them.

If you have any questions, please do not hesitate to contact me.

Respectfully Submitted,



Alfred M. Mamlet
Counsel for Telefónica Larga Distancia
de Puerto Rico, Inc.

/srh-m
Enclosure
cc: Julius Genachowski

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FOREIGN AFFILIATED-CARRIER NPRM



OVERVIEW

- LAW
 - ▶ JURISDICTION
- ECONOMICS
 - ▶ TRADE POLICY
 - ▶ SAFEGUARDS
 - ▶ COMPETITION
- DO THE RIGHT THING



EXECUTIVE BRANCH HAS STATUTORY AUTHORITY FOR TELECOM TRADE

- **SECTION 301**
 - ▶ VESTS AUTHORITY WITH USTR
 - ▶ MANDATES STANDARDS AND PROCEDURES DIFFERENT THAN NPRM
- **TELECOM TRADE ACT OF 1988**
 - ▶ VESTS AUTHORITY WITH USTR
 - ▶ AUTHORIZES USTR TO IMPOSE RECIPROCITY MEASURES
 - ▶ LIMITS FCC ROLE TO DATA COLLECTION AND STUDY
 - ▶ CONFERENCE REPORT CAUTIONS THAT THIS FCC ROLES DOES NOT MEAN "THAT THE FCC HAS ANY LEGAL AUTHORITY TO FORMULATE TRADE POLICY."



NO STATUTORY BASIS FOR FCC JURISDICTION OVER TRADE UNDER SECTION 214

- CONGRESS AUTHORIZED LIMITED CONSIDERATION OF RECIPROCITY UNDER SECTIONS 35, 308(C), 310(C)
- CONGRESS RECENTLY REJECTED BILL TO GIVE FCC AUTHORITY TO CONSIDER RECIPROCITY UNDER 214
- CONGRESS MAY GIVE FCC AUTHORITY TO CONSIDER RECIPROCITY UNDER SECTION 310(B), BUT NOT SECTION 214



FCC AND EXECUTIVE BRANCH HAVE PREVIOUSLY CONCLUDED FCC LACKS AUTHORITY TO CONSIDER RECIPROCITY

- **1980 CABLE DECISION ACKNOWLEDGED LACK OF JURISDICTION**
- **1987 NPRM REJECTED PROPOSED APPROACH**
- **1987 AND 1988 EXECUTIVE BRANCH COMMENTS STRONGLY OPPOSED FCC CONSIDERATION OF RECIPROCITY**
- **1995 EXECUTIVE BRANCH COMMENTS WOULD REQUIRE "GREAT DEFERENCE," AMOUNTING TO RUBBER STAMP IN VIOLATION OF APA**



NEITHER NPRM NOR SUPPORTERS OF PROPOSED RULE HAVE PROVIDED JURISDICTIONAL BASIS

- AMERICATEL - REJECTED RECIPROCITY TEST AND CONSIDERED SAFEGUARDS IN LIGHT OF LIBERALIZATION
- INTERNATIONAL RESALE - GOAL WAS TO PROTECT US CONSUMERS, AND TEST APPLIES EQUALLY TO APPLICATIONS OF FOREIGN AND US COMPANIES
- INTERNATIONAL COMPETITIVE CARRIER POLICIES - REQUIRED OPERATING AGREEMENTS TO PROTECT COMPETITION, BUT STATED "WE ARE NOT EQUIPPED, HOWEVER, TO CONSIDER THE DOMESTIC MARKETS OF FOREIGN COUNTRIES."

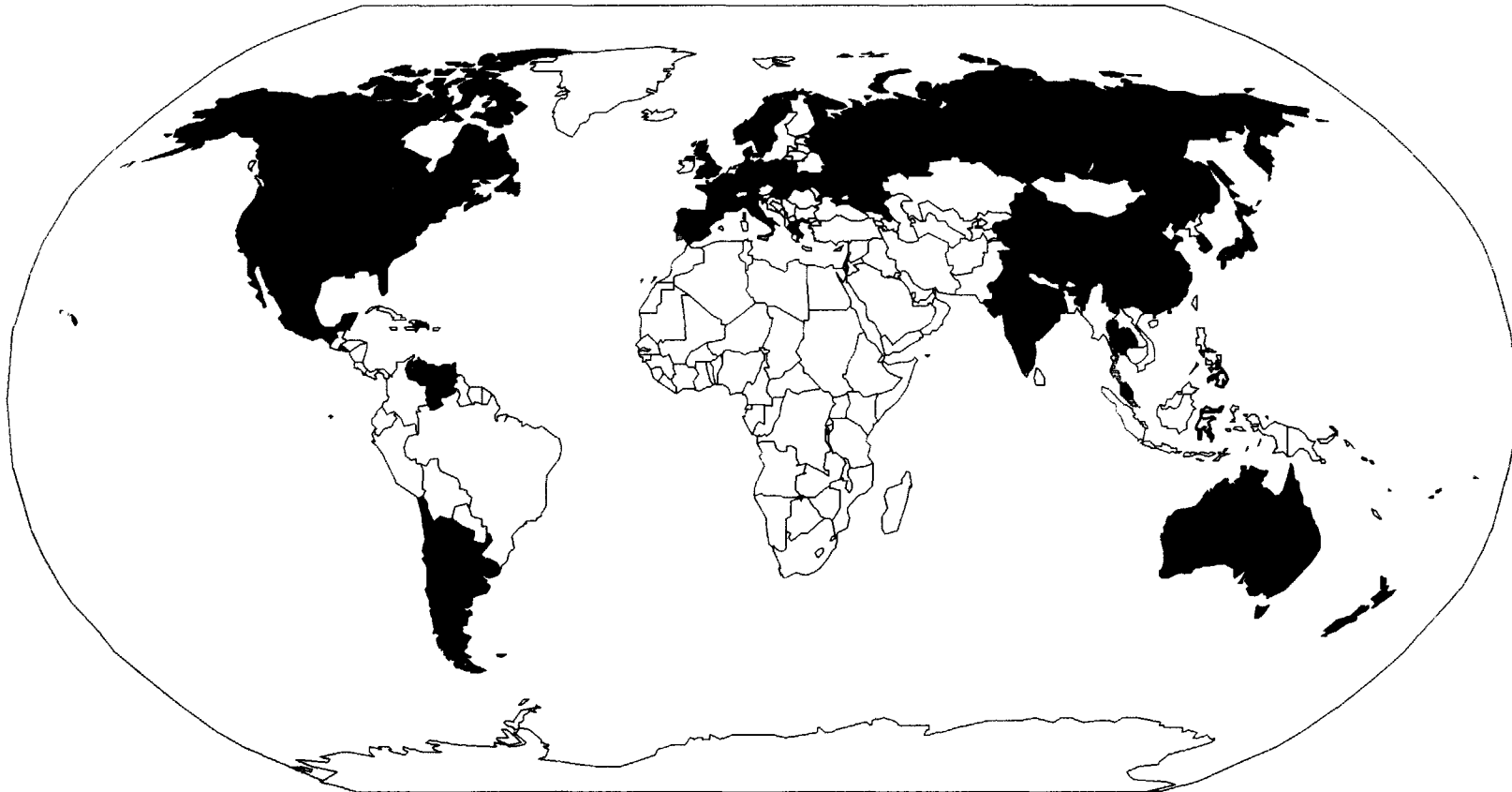


PROPOSED RULE WOULD NOT PROMOTE OPEN ENTRY

- **TELECOM LIBERALIZATION NOT AMENABLE
TO TRADE INFLUENCE**
- **FCC DOES NOT HAVE ENOUGH CARROTS
AND STICKS**
- **PROPOSED RULE WOULD INVITE
RETALIATION**



COUNTRIES WHERE U.S. CARRIERS HAVE INVESTMENTS IN PROVIDERS OF TELECOMMUNICATIONS SERVICES





U.S.-SPAIN BILATERAL TELECOMMUNICATIONS INVESTMENTS

- U.S. INVESTMENTS IN SPAIN

- ▶ AIRTOUCH IS LEAD PARTICIPANT IN AIRTEL CONSORTIUM THAT PAID \$654 MILLION FOR PCS LICENSE
- ▶ US WEST AND TIME WARNER HAVE INVESTED \$2.6 BILLION IN CABLE TV FRANCHISE
- ▶ AT&T INVESTED \$300 MILLION IN TWO EQUIPMENT MANUFACTURING PLANTS
- ▶ AT&T AND MOTOROLA ARE MAJOR EQUIPMENT SUPPLIERS

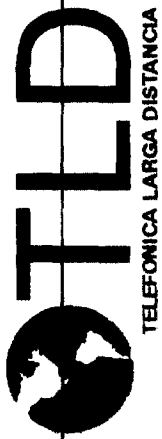
- SPANISH INVESTMENTS IN U.S.

- ▶ TI PURCHASED 79% OF TLD FOR \$112 MILLION
- ▶ TI OWNS 14.9% OF TUPR

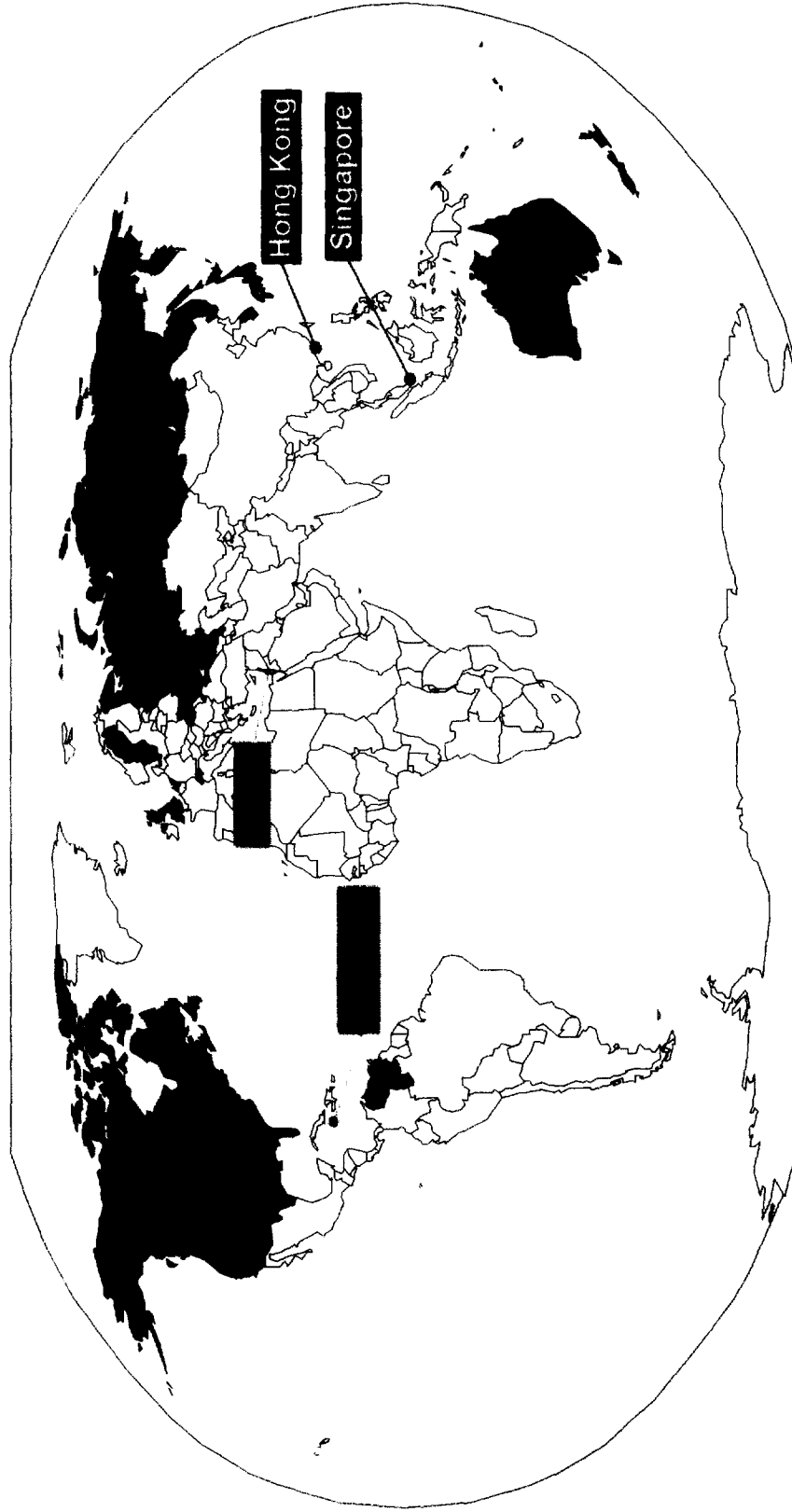


PROPOSED RULE WOULD BE DOUBLE STANDARD

- **EXCLUDES US INVESTMENTS IN FOREIGN CARRIERS**
- **EXCLUDES WORLDPARTNERS**



AT&T INTERNATIONAL AFFILIATES





COMPARISON OF AT&T AND TLD AFFILIATED TRAFFIC (1993)

<u>COUNTRY</u>	<u>AT&T AFFILIATED TRAFFIC (MINUTES)</u>	<u>TLD AFFILIATED TRAFFIC (MINUTES)</u>
CANADA	1,458,241,019	0
UKRAINE	7,637,906	0
VENEZUELA	55,712,871	637,262
AUSTRALIA	76,186,061	0
JAPAN	223,838,531	0
HONG KONG	72,319,236	0
NETHERLANDS	68,801,141	0
NEW ZEALAND	14,292,866	0
SINGAPORE	31,884,215	0
SOUTH KOREA	129,370,509	0
SWEDEN	39,101,383	0
SWITZERLAND	63,789,791	0
ARGENTINA	0	169,585
CHILE	0	88,208
SPAIN	<u>0</u>	<u>622,699</u>
 TOTAL AFFILIATED TRAFFIC	 2,241,175,529	 1,517,754
 ALL INTERNATIONAL TRAFFIC	 7,234,974,628	 22,881,498

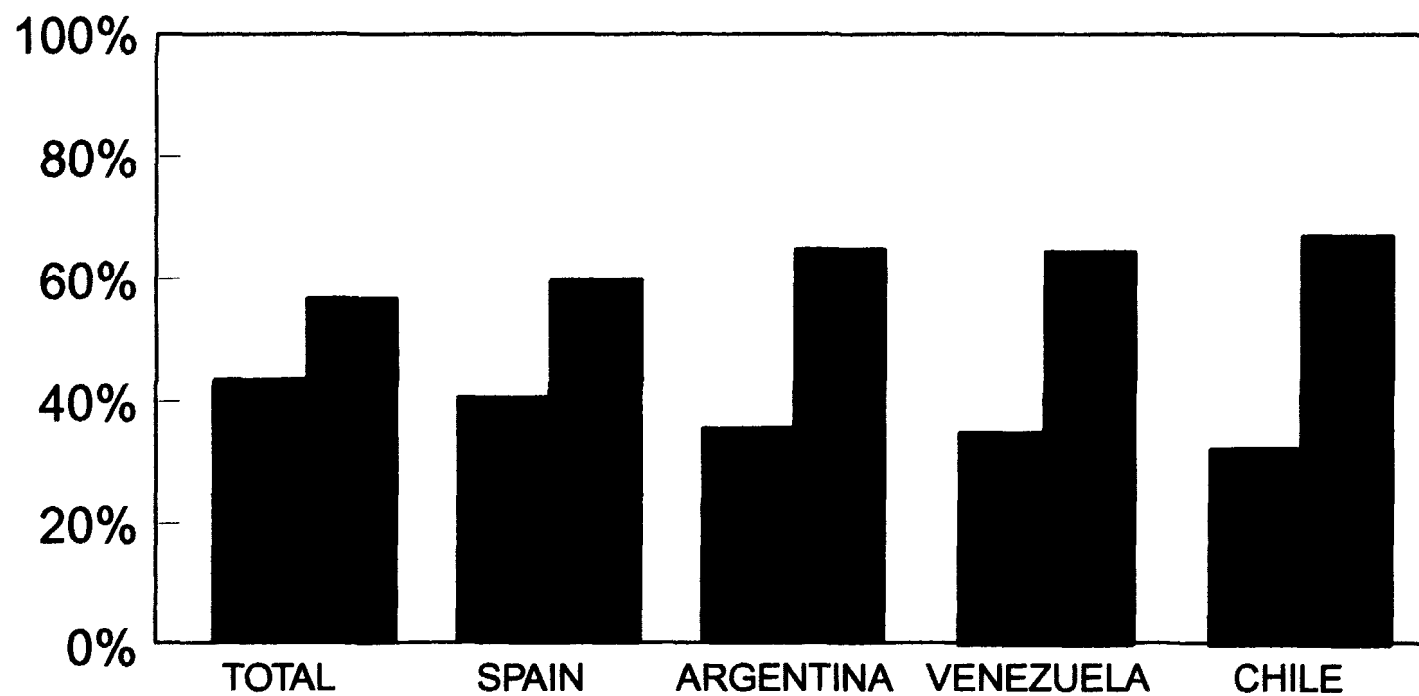


CURRENT SAFEGUARDS ARE SUFFICIENT

- **COMMISSION ALREADY HAS ELABORATE SET OF SAFEGUARDS THAT WORK WELL**
- **NO EVIDENCE THAT SAFEGUARDS HAVE FAILED**
- **AT&T'S THREE CONCERNS ARE HYPOTHETICAL AND COVERED BY FCC RULES**
 - ▶ **DISPROPORTIONATE RETURN TRAFFIC**
 - ▶ **DISCRIMINATORY INTERCONNECTIONS**
 - ▶ **ACCOUNTING RATE PRICE SQUEEZE**



AT&T AND TLD MARKET SHARE (PUERTO RICO 1993)



■ TLD
■ AT&T

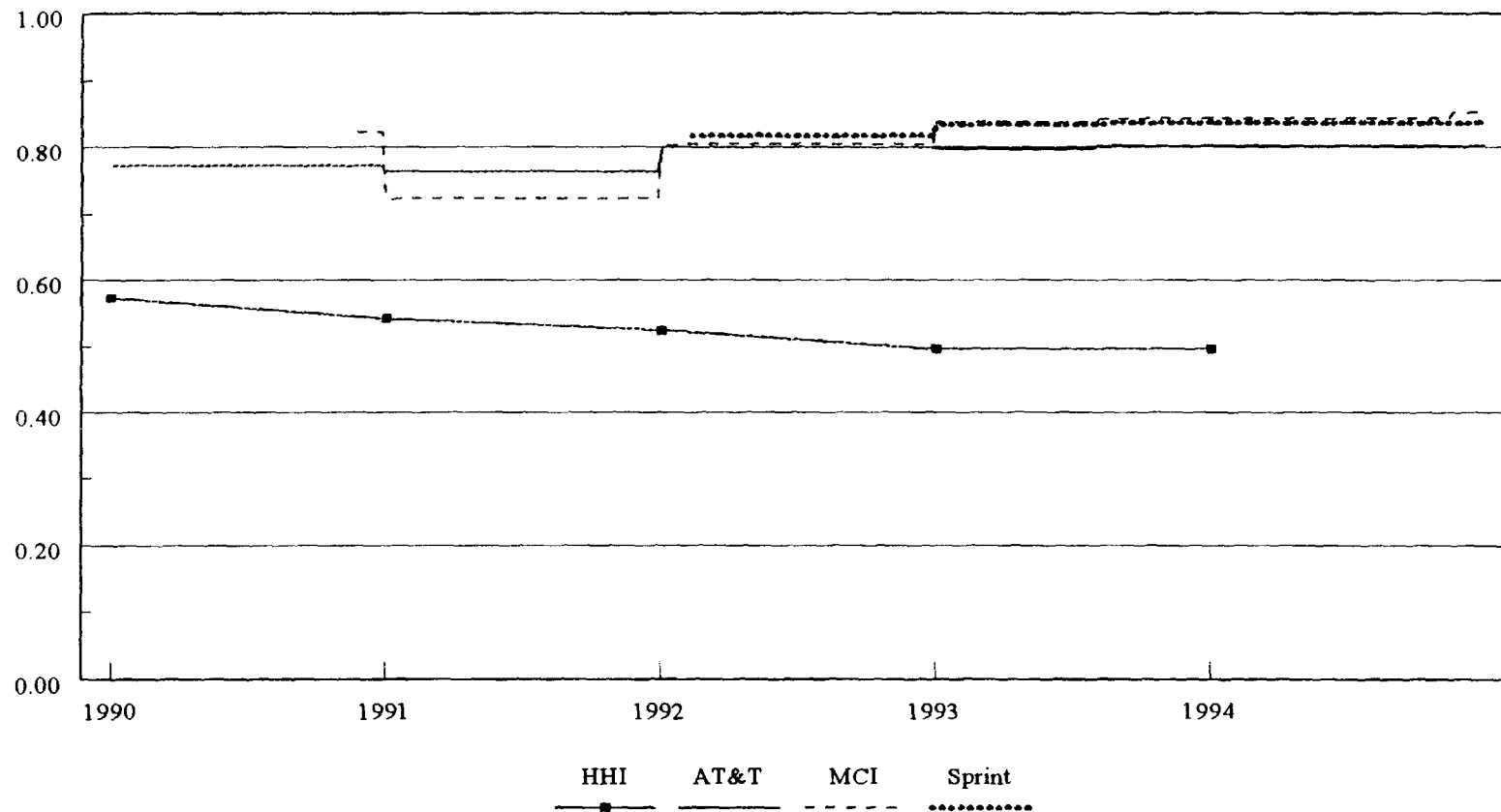
COMPETITION IN INTERNATIONAL MARKETS

- CONCENTRATION INDICES ARE HIGH, BUT DECLINING. PROFIT MARGINS WOULD DECLINE IF MARKET WERE COMPETITIVE
- MARGINS HAVE INCREASED DESPITE DECLINES IN CONCENTRATION
- MARGINS ARE NOT LOWER IN MARKETS WITH LOWER CONCENTRATIONS
- PRICE-COST MARGINS EXCEED 0.70, WHICH IS A HIGHER LEVEL THAN IN OTHER HIGHLY CONCENTRATED INDUSTRIES
- FACILITIES-BASED COMPETITION BY NEW ENTRANTS COULD MAKE THESE MARKETS MORE COMPETITIVE



IMTS PRICE-COST MARGINS FOR LONG-DISTANCE CALLS FROM U.S. TO UNITED KINGDOM

Price Cost Margin and HHI



HHIs AND STANDARD IMTS PRICE-COST MARGINS (1994)

		Price Cost Margins
	HHI	
	0.42	
	0.55	
	0.50	
	0.56	
	0.43	
	0.49	
	0.52	
	0.56	



EVEN LARGEST U.S. CARRIERS NEED ACCESS TO FOREIGN CAPITAL TO COMPETE AGAINST AT&T

CARRIER	1993
	TOTAL TOLL REVENUES
AT&T	\$37,166,000,000
MCI	\$11,715,000,000
SPRINT	\$ 6,805,000,000
LDDS	\$ 3,138,000,000
C&W	\$ 654,000,000



DO THE RIGHT THING

- MAINTAIN CURRENT POLICY
- LIMIT APPLICABILITY OF ANY NEW RULE TO AFFILIATED ROUTES
 - ▶ BEST CASE FOR JURISDICTION
 - ▶ SAFEGUARD U.S. MARKET
 - ▶ PROMOTES COMPETITION